

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION**

	*	
UNITED STATES OF AMERICA	*	
v.	*	Criminal No. RDB-15-0457
PAUL JONES	*	

* * * * *

MOTION TO SUPPRESS EVIDENCE

The Defendant, Paul Jones, through counsel, James Wyda, Federal Public Defender for the District of Maryland, and Lisa W. Lunt, Assistant Federal Public Defender, hereby moves this Honorable Court pursuant to Rule 12(b)(3) of the Federal Rules of Criminal Procedure, to issue a pretrial ruling suppressing any and all evidence obtained from unlawful government conduct on or about May 28, 2015, as well as all derivative evidence therefrom. The Government conduct was unlawful in a number of areas, including the following: (1) the arrest of Mr. Jones, (2) the warrantless search of his house, and (3) the circumstances surrounding obtaining and executing a search warrant for Mr. Jones's house should the Government allege that officers had a valid search and seizure warrant. As grounds therefore, Mr. Jones states the following:

1. . Mr. Jones is currently charged with one count of Possession of a Firearm by a Convicted Felon, in violation of Title 18 United States Code section 922(g), and one count of Possession With Intent to Distribute a Controlled Substance, in violation of Title 21 United States Code section 841. On October 30, 2015, the defendant will be arraigned and is expected

to enter a plea of not guilty to each count.

2. Discovery provided by the government indicates that on or around May 28, 2015, officers from the Baltimore City Police Department (“BCPD”) conducted an arrest of the Defendant. Mr. Jones’s arrest on May 28, 2015, was based on illegally obtained evidence, was unsupported by probable cause, and was thus unlawful.

3. Discovery reflects that officers claim to have searched Mr. Jones’s residence at 32 Upmanor Rd., Baltimore, MD on May 28, 2015, pursuant to a signed search and seizure warrant, but no such warrant has been provided to the Defendant. Therefore, the search of that BCPD Officers conducted on May 28, 2015 was warrantless and in violation of the Fourth Amendment to the United States Constitution. No exceptions to the warrant requirement apply. Should the Government make an argument that officers relied on a signed warrant, it was obtained without probable cause. *See Illinois v. Gates*, 462 U.S. 213, 238 (1983); *see also Draper v. United States*, 358 U.S. 307, 313 (1959).

4. Should a signed warrant be located, execution of it was in violation of the Fourth Amendment to the United States Constitution and Federal Rule of Criminal Procedure 41(d). *See, e.g., Bumper v. North Carolina*, 391 U.S. 543 (1968); *Marron v. United States*, 275 U.S. 192, 313-14 (1927); *Wilson v. Arkansas*, 514 U.S. 927, 929 (1995); *United States v. Wardrick*, 350 F.3d 446, 449 (4th Cir. 2003).

5. As a result of the Constitutional violations triggered by the warrantless search as well as the receipt and execution of any search warrant that the Government may procure, any items seized or obtained as a result of these unlawful actions must be suppressed, as must all derivative evidence. *See U.S. Const. Amend IV*.

WHEREFORE, for the above reasons and for any other reasons which may appear to the court, Mr. Jones respectfully moves this Honorable Court to issue a pretrial ruling barring the government from admitting any and all direct or derivative evidence seized as a result of the unlawful actions, detailed herein, of law enforcement agents on or around May 28, 2015.

The filing of this motion, as well as any other motions filed, does not toll the speedy trial clock. *See Bloate v. United States*, 130 S.Ct. 1345 (2010).

Respectfully submitted,

JAMES WYDA
Federal Public Defender

//s//

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MEMORANDUM OF POINTS AND AUTHORITIES

1. Fourth Amendment to the United States Constitution.
2. Federal Rule of Criminal Procedure, Rule 41.
3. *Arkansas v. Sanders*, 442 U.S. 753 (1979).
4. *Bumper v. North Carolina*, 391 U.S. 543 (1968).
5. *Chimel v. California*, 395 U.S. 752 (1969).
6. *Draper v. United States*, 358 U.S. 307, 313 (1959).
7. *Illinois v. Gates*, 462 U.S. 213, 238 (1983).
8. *Katz v. United States*, 389 U.S. 347 (1967).
9. *Marron v. United States*, 275 U.S. 192, 313-14 (1927).
10. *Schneckloth v. Bustamonte*, 412 U.S. 218 (1973).
11. *Terry v. Ohio*, 392 U.S. 1 (1968).
12. *Trupiana v. United States*, 334 U.S. 699 (1948)
13. *United States v. Jarrett*, 229 F. Supp. 2d 503 (E.D. Va. 2002).
14. *United States v. Wardrick*, 350 F.3d 446, 449 (4th Cir. 2003).
15. *Wilson v. Arkansas*, 514 U.S. 927, 929 (1995).

Respectfully submitted,

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REQUEST FOR HEARING

Pursuant to Rule 105.6 of the Local Rules of the United States District Court for the District of Maryland, a hearing is requested on the Defendant's Motion.

LISA W. LUNT
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